
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:2-215, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Sums from the compliance resolution fund expended by
4 the commissioner shall be used to defray any administrative
5 costs, including personnel costs, associated with the programs
6 of the division, and costs incurred by supporting offices and
7 divisions. Any law to the contrary notwithstanding, the
8 commissioner may use the moneys in the fund to employ or retain,
9 by contract or otherwise, without regard to chapter 76, hearings
10 officers, attorneys, investigators, accountants, examiners, and
11 other necessary professional, technical, administrative, and
12 support personnel to implement and carry out the purposes of
13 title 24; provided that any position, except any attorney
14 position, that is subject to chapter 76 prior to July 1, 1999,
15 shall remain subject to chapter 76."

16 SECTION 2. Section 431:2-216, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:



1 "(a) Beginning with fiscal year 2000-2001, and including
2 fiscal year 2001-2002, each mutual benefit society under article
3 1 of chapter 432, health maintenance organization under chapter
4 432D, and any other entity offering or providing health benefits
5 or services under the regulation of the commissioner, except an
6 insurer licensed to offer accident and health or sickness
7 insurance under article 10A, shall deposit with the commissioner
8 by July 1 of each year an assessment of \$10,000 for the first
9 seventy thousand private, nongovernment members the entity
10 covers and an additional assessment on a pro rata basis to be
11 determined and imposed by the commissioner for covered members
12 exceeding seventy thousand; provided that in the third year and
13 each year thereafter, assessments shall be borne on a pro rata
14 basis. The aggregate annual assessment shall not exceed
15 \$1,000,000. ~~[The]~~ This assessment shall be credited to the
16 compliance resolution fund. If assessments are increased, the
17 commissioner shall provide to any organization or entity subject
18 to the increased assessment, justification for the increase.

19 (b) The assessments shall be used to defray any
20 administrative costs, including personnel costs, associated with
21 ~~[insurance regulation,]~~ the programs of the division, and costs
22 incurred by supporting offices and divisions. Any law to the



1 contrary notwithstanding, the commissioner may use the moneys
2 from assessments to employ[, ~~without regard to chapter 76,~~
3 ~~necessary professional, technical, administrative, and support~~
4 ~~personnel to implement and~~ or retain, by contract or otherwise,
5 without regard to chapter 76, hearings officers, attorneys,
6 investigators, accountants, examiners, and other necessary
7 professional, technical, administrative, and support personnel
8 to implement and carry out the purposes of title 24 as it
9 relates to accident and health or sickness insurance[~~-~~];
10 provided that any position, except any attorney position, that
11 is subject to chapter 76 prior to July 1, 1999, shall remain
12 subject to chapter 76."

13 SECTION 3. Section 431:2-308, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) Application for a hearing made to the commissioner
16 pursuant to this code shall be in writing and shall specify in
17 what respects the person so applying was aggrieved and the
18 grounds to be relied upon as a basis for the relief to be
19 demanded at the hearing. Where the commissioner has used the
20 authority contained in section [~~431:9-236~~] 431:9-235 or section
21 431:9A-112 to suspend, revoke, or refuse to extend a license
22 subject to the right of the licensee to have a hearing and has



1 suspended the license pending the hearing, the commissioner
2 shall hold the hearing within thirty days after the
3 commissioner's receipt of the application unless postponed by
4 mutual consent."

5 SECTION 4. Section 431:8-202, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) No person [~~in this State~~] shall directly or
8 indirectly act as producer for, or otherwise represent or aid on
9 behalf of another, any unauthorized insurer in the solicitation,
10 negotiation, procurement, or effectuation of insurance, or
11 renewals thereof, or forwarding of applications, or delivery of
12 policies or contracts or inspection of risks, or fixing of
13 rates, or investigation or adjustment of claims or losses, or
14 collection or forwarding of premiums, or in any other manner
15 represent or assist [~~such~~] an unauthorized insurer in the
16 transaction of an insurance business."

17 SECTION 5. Section 431:8-205, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Gross premiums charged for the insurance, less any
20 return premiums, are subject to a tax at the rate of 4.68 per
21 cent. At the time of filing the report required in subsection
22 (b), the insured shall pay the tax to the commissioner.



1 As used in this subsection, "gross premiums" mean the
2 amount of the policy or coverage premium charged by the insurer
3 in consideration for the insurance contract. Any charges for
4 policy, survey, inspection, service, or similar fees or other
5 charges added by the broker shall not be considered part of
6 gross premiums."

7 SECTION 6. Section 431:8-207, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Service of process in ~~[such]~~ an action or proceeding
10 shall be made in accordance with section 431:2-206. ~~[Such~~
11 ~~service]~~ Service is sufficient if:

12 (1) Notice of ~~[such]~~ service and a copy of the court
13 process or the notice, order, pleading, or process in
14 ~~[such]~~ the administrative proceeding are sent within
15 ten days by registered mail by the plaintiff or the
16 plaintiff's attorney in the court proceeding, or by
17 the commissioner in the administrative proceeding, to
18 the defendant or defendant's agent or representative
19 at the defendant's last known principal place of
20 business;

21 (2) The defendant's receipt, or receipt issued by the post
22 office with which the letter is registered, showing



1 the name of the sender of the letter and the name and
2 address of the person or insurer to whom the letter is
3 addressed, and an affidavit of the plaintiff or the
4 plaintiff's attorney in a court proceeding, or of the
5 commissioner in an administrative proceeding, are
6 filed with the clerk of the court in which ~~[such]~~ the
7 proceeding is pending or with the commissioner in
8 administrative proceedings, on or before the date the
9 defendant is required to appear or respond, or within
10 ~~[such]~~ any further time as the court or commissioner
11 may allow."

12 SECTION 7. Section 431:8-209, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§431:8-209 Attorney's fees.** In an action against an
15 unauthorized insurer upon a contract of insurance issued or
16 delivered to a person in this ~~[State]~~ state ~~[to a resident~~
17 ~~thereof or to a corporation authorized to do business therein]~~,
18 if the insurer has failed for thirty days after demand prior to
19 the commencement of the action to make payment in accordance
20 with the terms of the contract, and it appears to the court that
21 ~~[such]~~ the refusal was vexatious and without reasonable cause,
22 the court may allow to the plaintiff reasonable attorney's fees



1 and include [~~such~~] the fees in any judgment that may be rendered
2 in [~~such~~] the action. The fee shall not exceed twelve and one-
3 half per cent of the amount [~~which~~] that the court or jury finds
4 the plaintiff is entitled to recover against the insurer, but in
5 no event shall the fee be less than \$25. Failure of an insurer
6 to defend any such action shall be deemed prima facie evidence
7 that its failure to make payment was vexatious and without
8 reasonable cause."

9 SECTION 8. Section 431:8-211, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Any person, other than an insured, who [~~in this~~
12 ~~State~~] represents or aids an unauthorized insurer in violation
13 of this part may be subject to a fine not in excess of \$1,000."

14 SECTION 9. Section 431:8-310, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**\$431:8-310 Surplus lines broker license required;**
17 **qualifications for license.** (a) No person shall procure any
18 contract of surplus lines insurance with an unauthorized insurer
19 unless [~~such~~] the person is licensed as a surplus lines broker.

20 (b) The commissioner shall issue a surplus lines broker
21 license to any producer licensed under article 9A when the
22 producer has:



(1) Remitted the annual license fee to the commissioner as provided in article 7; and

(2) Submitted a completed license application on a form furnished by the commissioner.

(c) A surplus lines broker license shall be inactivated if a licensee fails to pay any required fee or penalty. A surplus lines broker who allows the surplus lines broker's license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of a written examination; provided that the surplus lines broker:

(1) Pays the fee and a penalty in the amount of fifty per cent of the then unpaid fees within twenty-four months from the inactivation date; and

(2) Is in compliance with all requirements of chapter 431.

The license shall automatically expire if the surplus lines broker does not reinstate the surplus lines broker's license within the twenty-four-month period.

~~[(c) Corporations, including foreign corporations,]~~ (d) Business entities shall be eligible to be surplus lines brokers, upon meeting the following conditions:

(1) The ~~[corporate]~~ business entity licensee shall list individuals within the ~~[corporation]~~ business entity



1 who have satisfied all requirements of this part to
2 become surplus lines brokers; ~~[and]~~

3 (2) Only those individuals listed on the ~~[corporate]~~
4 business entity's license shall transact surplus lines
5 business~~[-]~~; and

6 (3) An individual licensed as a surplus lines broker shall
7 be identified as the business entity's designated
8 representative.

9 ~~[(d)]~~ (e) Licensing procedure, duration, and related
10 matters are governed by ~~[article]~~ articles 7 and 9A."

11 SECTION 10. Section 431:8-315, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) On or before March 15 of each year, each surplus
14 lines broker shall pay to the director of finance, through the
15 commissioner, a premium tax on surplus lines insurance
16 transacted by ~~[such]~~ the broker during the preceding calendar
17 year. The tax shall be in the amount of 4.68 per cent of gross
18 premiums, less return premiums, on taxable surplus lines
19 insurance.

20 As used in this subsection, "gross premiums" mean the
21 amount of the policy or coverage premium charged by the insurer
22 in consideration for the insurance contract. Any charges for



1 policy, survey, inspection, service, or similar fees or other
2 charges added by the broker shall not be considered part of
3 gross premiums."

4 SECTION 11. Section 431:8-316, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§431:8-316 Penalty for failure to file statement or remit**
7 **tax. (a)** If any surplus lines broker fails to:

8 (1) File an annual statement[~~7~~]; or

9 (2) Pay the premium tax required by section 431:8-315 when
10 the tax is due,

11 the surplus lines broker [~~shall~~] may be liable for a fine of up
12 to \$25 for each day of delinquency. [~~The tax may be collected~~
13 ~~by distraint, or the tax and fine for failure to pay the tax may~~
14 ~~be recovered by action instituted by the commissioner in any~~
15 ~~court of competent jurisdiction. The fine for failure to file~~
16 ~~the annual statement may be recovered by an action instituted by~~
17 ~~the commissioner in any court of competent jurisdiction.]~~

18 (b) The commissioner may:

19 (1) Collect the premium tax required by section 431:8-315
20 by distraint;

21 (2) Recover the premium tax required by section 431:8-315
22 and fine for failure to pay the premium tax by



1 instituting an action in any court of competent
2 jurisdiction; or

3 (3) Recover the fine for failure to file the annual
4 statement by instituting an action in any court of
5 competent jurisdiction."

6 SECTION 12. Section 431:8-317, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) The commissioner may suspend, revoke, or refuse to
9 extend any surplus lines broker's license for any cause
10 specified in any other provision of this chapter, or for any of
11 the following causes:

12 (1) Failure to file the annual statement required by
13 section 431:8-313 or to pay the tax required by
14 section 431:8-315;

15 (2) Failure [~~to maintain an office in this State, or~~] to
16 keep records[~~7~~] or to allow the commissioner to
17 examine [~~such~~] the surplus lines broker's records as
18 provided in this article;

19 (3) Removal of office accounts and records from this
20 [~~State~~] state during the period in which [~~such~~] the
21 accounts are required to be maintained under this
22 article;



- 1 (4) Any of the causes for which a producer's license may
2 be suspended or revoked under article 9A;
- 3 (5) Any cause for which issuance of the license could have
4 been refused had it then existed and been known to the
5 commissioner;
- 6 (6) If the licensee wilfully violates or knowingly
7 participates in the violation of any provision of this
8 code;
- 9 (7) If the licensee has obtained or attempted to obtain
10 the license through wilful misrepresentation or fraud,
11 or has failed to pass any examination required by
12 section 431:9A-105;
- 13 (8) If the licensee has misappropriated, converted to the
14 licensee's own use, or illegally withheld moneys
15 required to be held in a fiduciary capacity;
- 16 (9) If the licensee [~~has~~], with intent to deceive, has
17 materially misrepresented the terms or effect of any
18 insurance contract, or has engaged or is about to
19 engage in any fraudulent transaction;
- 20 (10) If the licensee has been guilty of any unfair practice
21 or fraud as defined in article 13;



(11) If in the conduct of the licensee's affairs under the license, the licensee has been a source of injury and loss to the public;

(12) If the licensee issues or purports to issue any binder as to any insurer named therein as to which the licensee is not then authorized so to bind; or

(13) If the licensee has dealt with, or attempted to deal with, insurance or to exercise powers relative to insurance outside the scope of the licensee's licenses."

SECTION 13. Section 431:9-101, Hawaii Revised Statutes, is amended to read as follows:

"§431:9-101 Scope. This article shall govern the qualifications and procedures for granting licenses to all insurance adjusters[~~7~~] and independent bill reviewers[~~7~~ and ~~limited service representatives~~]."

SECTION 14. Section 431:9-105, Hawaii Revised Statutes, is amended to read as follows:

"§431:9-105 [~~Adjuster defined.~~ (a) ~~Adjuster means~~]
Definitions. As used in this article, unless the context otherwise requires:

"Adjuster":



1 (1) Means any individual who:

2 [~~(1)~~] (A) Acts solely on behalf of either the insurer or
3 the insured, as an independent contractor or as
4 an employee of an independent contractor; and

5 [~~(2)~~] (B) Investigates for, reports to, or adjusts for the
6 individual's principal relative to claims arising
7 under insurance contracts~~[-]~~; but

8 (2) Does not include an individual who is:

9 (A) An attorney at law who adjusts insurance losses
10 from time to time incidental to the practice of
11 the attorney's profession;

12 (B) An adjuster of marine losses;

13 (C) A salaried employee of an insurer or salaried
14 employee of an adjusting corporation or an
15 association owned or controlled by an insurer; or

16 (D) An individual who acts for a self-insurer or for
17 an insured that administers its own group
18 insurance contract.

19 [~~(b) Independent adjuster~~] "Independent adjuster" means an
20 adjuster representing the interests of the insurer.

21 "Independent bill reviewer":

22 (1) Means any individual who:



1 (A) Acts solely on behalf of either the insurer as an
2 independent contractor or as an employee of an
3 independent contractor; and

4 (B) Reviews or audits billings for medical services;
5 but

6 (2) Does not include an individual who is:

7 (A) A salaried employee of an insurer or salaried
8 employee of an adjusting corporation or an
9 association owned or controlled by an insurer; or

10 (B) A database provider for the insurer.

11 ~~[(c) Public adjuster]~~ "Public adjuster" means an adjuster
12 employed by and solely representing the financial interests of
13 the insured named in the policy.

14 ~~[(d) For the purposes of this article, the following~~
15 ~~individuals are not deemed to be an adjuster:~~

16 ~~(1) An attorney at law who adjusts insurance losses from~~
17 ~~time to time incidental to the practice of the~~
18 ~~attorney's profession;~~

19 ~~(2) An adjuster of marine losses;~~

20 ~~(3) A salaried employee of a producer, an insurer, or of~~
21 ~~an adjusting corporation or association owned and~~
22 ~~controlled by insurers; and~~



1 ~~(4) An individual who acts for a self-insurer or for an~~
2 ~~insured which administers its own group insurance~~
3 ~~contract.~~

4 ~~(c) Following a catastrophe in this State, a Hawaii~~
5 ~~license shall not be required of a nonresident independent~~
6 ~~adjuster for the adjustment of losses; provided that:~~

7 ~~(1) The common losses suffered that are to be adjusted are~~
8 ~~a direct result of that catastrophe;~~

9 ~~(2) The adjuster provides to the licensing branch of the~~
10 ~~insurance division a certified copy of the adjuster's~~
11 ~~current license in another state. That other state~~
12 ~~shall have similar licensing requirements to section~~
13 ~~431:9-222; and~~

14 ~~(3) Within three working days of when the nonresident~~
15 ~~independent adjuster begins work, the insurance~~
16 ~~company, independent adjusting company, or producer~~
17 ~~that is utilizing the adjuster shall provide on its~~
18 ~~letterhead to the licensing branch of the insurance~~
19 ~~division:~~

20 ~~(A) The name of the adjuster;~~

21 ~~(B) The adjuster's Hawaii mailing and business~~
22 ~~addresses and phone numbers; and~~



1 ~~(C) The adjuster's permanent home and business~~
2 ~~addresses and phone numbers.~~

3 ~~For the purpose of this subsection, a catastrophe exists~~
4 ~~when due to a sudden, specific, and natural or manmade disaster~~
5 ~~or phenomenon, there arises property losses in Hawaii that are~~
6 ~~covered by insurance. These losses must be so severe that~~
7 ~~resident licensed and independent adjusters will be unable to~~
8 ~~adjust the losses within a reasonable time as determined by the~~
9 ~~insurance division.~~

10 ~~(f) Upon satisfaction of all the requirements in~~
11 ~~subsection (e), the nonresident independent adjuster may be~~
12 ~~registered with the licensing branch of the insurance division~~
13 ~~and adjust catastrophic losses in this State for up to one~~
14 ~~hundred twenty days from the date of registration or for a~~
15 ~~period of time determined by the commissioner, whichever is~~
16 ~~less.]"~~

17 SECTION 15. Section 431:9-201, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§431:9-201 License required~~[-]~~; exception.** (a) No
20 person engaging in the business of insurance in this [~~State~~]
21 state shall act as, be appointed as, or hold oneself out to be



1 an adjuster or independent bill reviewer unless so licensed by
2 this [~~State.~~] state.

3 (b) Notwithstanding subsection (a), following a
4 catastrophe in this state, a Hawaii license shall not be
5 required of a nonresident adjuster for the adjustment of losses;
6 provided that:

7 (1) The common losses suffered that are to be adjusted are
8 a direct result of the catastrophe and shall be so
9 severe that licensed adjusters and licensed
10 independent adjusters who are residents of this state
11 will be unable to adjust the losses within a
12 reasonable time as determined by the commissioner;

13 (2) The nonresident adjuster provides to the commissioner
14 a certified copy of the adjuster's current license in
15 another state. The other state shall have
16 substantially similar licensing requirements to
17 section 431:9-222; and

18 (3) Within three working days of the commencement of work
19 by the nonresident adjuster, the insurance company,
20 independent adjusting company, or producer that is
21 using the adjuster shall provide on its letterhead to
22 the commissioner:



1 (A) The name of the nonresident adjuster;

2 (B) The nonresident adjuster's Hawaii mailing and
3 business addresses and phone numbers; and

4 (C) The nonresident adjuster's permanent home and
5 business addresses and phone numbers.

6 Upon satisfaction of all of these requirements, the
7 nonresident adjuster may be registered with the commissioner and
8 adjust catastrophic losses in this state for up to one hundred
9 twenty days from the date of registration or for a period of
10 time determined by the commissioner, whichever is less.

11 As used in this subsection, "catastrophe" means insured
12 property losses in Hawaii that result from a sudden, specific,
13 and natural or manmade disaster or phenomenon, as determined by
14 the commissioner.

15 ~~[(b)]~~ (c) Any person violating this section shall be
16 assessed a civil penalty not to exceed \$5,000 for each factually
17 different violation.

18 ~~[(e)]~~ (d) Any person who knowingly violates this section
19 shall be assessed a civil penalty of not less than \$1,000 and
20 not more than \$10,000 for each violation.



1 ~~[(d)]~~ (e) Each repetition of an act that constitutes a
2 violation subject to subsection ~~[(b)] or [(c)]~~ or (d) shall
3 constitute a separate violation."

4 SECTION 16. Section 431:9-203, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§431:9-203 General qualifications for license.** (a) For
7 the protection of the public, the commissioner shall not issue
8 or extend any ~~[such]~~ license ~~[except]~~ for an adjuster or
9 independent bill reviewer:

10 (1) Except [in compliance with this article, and shall not
11 issue or extend any such license to] as provided by
12 this article; or

13 (2) To any individual less than eighteen years of age.

14 (b) An applicant for a license under this article shall
15 notify the commissioner of the applicant's legal name and trade
16 name, if applicable. An applicant doing business under any name
17 other than applicant's legal name shall notify the commissioner
18 prior to using the assumed name.

19 (c) A licensee shall:

20 (1) Inform the commissioner by any means acceptable to the
21 commissioner of any change of status within thirty
22 days of the change; and



1 (2) Report any change of status to the business
2 registration division if the licensee is a business
3 entity registered with the department of commerce and
4 consumer affairs pursuant to title 23 or title 23A, or
5 if the licensee has registered a trade name pursuant
6 to part I of chapter 482.

7 Failure to timely inform the commissioner or business
8 registration division of a change of status shall result in a
9 penalty pursuant to section 431:2-203.

10 (d) As used in this section, "change of status" includes
11 but shall not be limited to change of legal name, assumed name,
12 trade name, business address, home address, business phone
13 number, business fax number, business electronic mail address,
14 business website address, or home phone number."

15 SECTION 17. Section 431:9-222, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) To qualify for an adjuster's license, an applicant
18 shall comply with this article and shall:

19 (1) Be domiciled in this [~~State,~~] state, or in a state
20 [~~which~~] that will permit residents of this [~~State~~]
21 state to act as adjusters in [~~such~~] the other state;



(2) Have had experience, special education, or training with reference to the handling of loss claims under insurance contracts, of sufficient duration and extent reasonably to make the individual competent to fulfill the responsibilities of an adjuster;

(3) Have successfully passed any examination required under section 431:9-206; and

(4) Have paid the license [~~fee.~~] fees required by section 431:7-101."

SECTION 18. Section 431:9-232, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A license for an adjuster or independent bill reviewer shall be inactivated if a licensee fails to pay any required fees or penalties.

An adjuster or independent bill reviewer who allows the adjuster's or independent bill reviewer's license to become inactive for nonpayment of the renewal fee may reinstate that license without the necessity of a written examination; provided that the adjuster or independent bill reviewer:

(1) Pays the fee and a penalty in the amount of fifty per cent of the then unpaid fees within twenty-four months from the inactivation date; and



1 (2) Is in compliance with all requirements of chapter 431.
2 The license shall automatically expire if the adjuster or
3 independent bill reviewer does not reinstate the license within
4 the twenty-four-month period."

5 SECTION 19. Section 431:9-235, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§431:9-235 Denial, suspension, revocation of licenses.**

8 (a) The commissioner may suspend, revoke, or refuse to extend
9 any license issued under this article for any cause specified in
10 any other provision of this article, or for any of the following
11 causes:

12 (1) For any cause for which issuance of the license could
13 have been refused had it then existed and been known
14 to the commissioner;

15 (2) If the licensee wilfully violates or knowingly
16 participates in the violation of any provision of this
17 code;

18 (3) If the licensee has obtained or attempted to obtain
19 any ~~such~~ license issued under this article through
20 wilful misrepresentation or fraud, or has failed to
21 pass any examination required by section 431:9-206;



1 (4) If the licensee has misappropriated, [~~or~~] converted to
2 the licensee's own use, or [~~has~~] illegally withheld
3 moneys required to be held in a fiduciary capacity;

4 (5) If the licensee [~~has~~], with intent to deceive, has
5 materially misrepresented the terms or effect of any
6 insurance contract; or has engaged or is about to
7 engage in any fraudulent transaction;

8 (6) If the licensee has been guilty of any unfair practice
9 or fraud as defined in article 13;

10 (7) If in the conduct of the licensee's affairs under the
11 license, the licensee has shown oneself to be a source
12 of injury and loss to the public; or

13 (8) If the licensee has dealt with, or attempted to deal
14 with, insurance or to exercise powers relative to
15 insurance outside the scope of the licensee's
16 licenses.

17 (b) The license of any partnership or corporation may be
18 so suspended, revoked, or refused for any of [~~such~~] the causes
19 [~~as~~] that relate to any individual designated in the license to
20 exercise its powers.



1 (c) The holder of any license, which has been revoked or
2 suspended, shall surrender the license certificate to the
3 commissioner at the commissioner's request.

4 (d) The commissioner shall not renew or reinstate, or
5 shall deny, suspend, or revoke any license or application, if
6 the commissioner has received certification from an
7 administering entity pursuant to chapter 436C that the licensee
8 or applicant is in default or breach of any obligation under any
9 student loan, student loan repayment contract, or scholarship
10 contract that financed the licensee's or applicant's education,
11 or has failed to comply with a repayment plan.

12 The commissioner in receipt of a certification pursuant to
13 chapter 436C shall, as applicable, and without further review or
14 hearing:

15 (1) Suspend the license;

16 (2) Deny the application or request for renewal of the
17 license; or

18 (3) Deny the request for reinstatement of the license,
19 and unless otherwise provided by law, shall renew, reinstate, or
20 grant the license only upon receipt of an authorization from the
21 administering entity.



1 (e) The commissioner may suspend, revoke, or refuse to
2 extend any license for any cause specified in this article by an
3 order:

4 (1) Given to the licensee not fewer than fifteen days
5 prior to the effective date thereof, subject to the
6 right of the licensee to have a hearing as provided in
7 section 431:2-308, and pending that hearing, the
8 license shall be suspended; or

9 (2) Made after a hearing, conducted as provided in section
10 431:2-308, effective ten days after the date the order
11 is given to the licensee, subject to the right of the
12 licensee to appeal to the circuit court of the first
13 judicial circuit of this state as provided in chapter
14 91."

15 SECTION 20. Section 431:9-235.5, Hawaii Revised Statutes,
16 is amended to read as follows:

17 "~~+~~§431:9-235.5~~+~~ **Suspension or denial of license for**
18 **noncompliance with support order.** In addition to any other acts
19 or conditions provided by law, the commissioner shall refuse to
20 renew, reinstate, or restore, or shall deny or suspend any
21 license if the commissioner has received certification from the
22 child support enforcement agency pursuant to the terms of



1 section 576D-13 that the licensee or applicant is not in
2 compliance with an order of support or has failed to comply with
3 a subpoena or warrant relating to a paternity or child support
4 proceeding. Unless otherwise provided by law, following receipt
5 of certification pursuant to this section, the commissioner
6 shall renew, reinstate, restore, or grant the license only upon
7 receipt of an authorization from the child support enforcement
8 agency, office of child support hearings, or the family court.
9 Sections 92-17, 431:9-235, [~~431:9-236,~~] 431:9-237, 431:9-238,
10 431:9-239, and 431:9-240 shall not apply to a refusal to renew,
11 reinstate, or restore a license or to a license suspension or
12 denial pursuant to this section."

13 SECTION 21. Section 431:9-243, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§431:9-243 Qualification for independent bill reviewer's**
16 **license.** To qualify for an independent bill reviewer's license,
17 an applicant shall comply with this article and shall:

- 18 (1) Be domiciled in this [~~State,~~] state, or in a state
19 that will permit residents of this [~~State~~] state to
20 act as independent bill reviewers in [~~such~~] the other
21 state;



(2) Have experience, special education, or training with reference to the review or audit of billings for medical services under insurance contracts, of sufficient duration and extent to reasonably make the individual competent to fulfill the responsibilities of an independent bill reviewer;

(3) Have successfully passed any examination required under section 431:9-206; and

(4) Pay the license [~~fee~~] fees required by section 431:7-101;

provided that any applicant who holds the credential of certified professional coder granted by the American Academy of Professional Coders or the credential of registered health information administrator, registered health information technician, certified coding specialist, or certified coding associate granted by the American Health Information Management Association shall be exempt from the requirements in paragraphs (1) to (3)."

SECTION 22. Section 431:9A-101, Hawaii Revised Statutes, is amended to read as follows:

"§431:9A-101 Scope. This article governs qualifications and procedures for the licensing of insurance producers. It



1 simplifies and organizes statutory language to improve
2 efficiency, to permit the use of new technology, and to reduce
3 costs associated with issuing and renewing insurance licenses.

4 ~~[This article does not apply to excess and surplus lines~~
5 ~~brokers licensed through article 8, except as provided in~~
6 ~~sections 431:9A-108 and 431:9A-116.] "~~

7 SECTION 23. Section 431:9A-102, Hawaii Revised Statutes,
8 is amended by amending the definition of "limited lines
9 insurance" to read as follows:

10 ""Limited lines insurance" means those lines of insurance a
11 producer may be licensed to sell pursuant to section 431:9A-
12 107.5 or any other line of insurance sold to individuals under
13 state law or rule for which an insurance producer license in one
14 or more of the lines of authority set forth in section 431:9A-
15 107(a)(1) to ~~[(5)]~~ (4) is not required."

16 SECTION 24. Section 431:9A-105, Hawaii Revised Statutes,
17 is amended by amending subsection (a) to read as follows:

18 "(a) ~~[A resident applicant applying]~~ An applicant for an
19 insurance producer license shall pass a written examination
20 unless exempt pursuant to section 431:9A-109. The examination
21 shall test the knowledge of the applicant concerning the lines
22 of authority for which application is made, the duties and



1 responsibilities of an insurance producer, and the insurance
2 laws and rules of this [~~State.~~] state."

3 SECTION 25. Section 431:9A-106, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "**§431:9A-106 Application for license.** (a) A person
6 applying for [~~a resident~~] an insurance producer license shall
7 make application to the commissioner on the uniform application
8 and declare under penalty of denial, suspension, or revocation
9 of the license that the statements made in the application are
10 true, accurate, and complete to the best of the applicant's
11 knowledge and belief. Before approving the application, the
12 commissioner shall find that the applicant:

- 13 (1) Is at least eighteen years of age;
- 14 (2) Has not committed any act that is a ground for a
15 licensure sanction set forth in section 431:9A-112;
- 16 (3) Has paid the applicable fee set forth in section
17 431:7-101; and
- 18 (4) Has passed, within the two years immediately preceding
19 the date of the examination or issuance of the
20 license, whichever is later, the applicable
21 examination for each line of authority for which the
22 applicant has applied.



1 (b) A business entity acting as an insurance producer is
2 required to obtain an insurance producer license. Application
3 shall be made using the uniform business entity application.
4 Before approving the application, the commissioner shall find
5 that:

6 (1) The business entity has paid all applicable fees;

7 (2) The business entity has designated a licensed producer
8 who is a natural person responsible for the business
9 entity's compliance with the insurance laws and rules
10 of this [~~State,~~] state; and

11 (3) Any licensed producer so designated or empowered by a
12 corporation or partnership may not be so designated or
13 empowered by more than one corporation or partnership,
14 except when the corporations or partnerships are
15 affiliates of each other.

16 As used herein[~~, a corporation or partnership is~~]:

17 "Control" has the same meaning as in section 431:11-102.

18 "Corporation or partnership" includes an affiliate of
19 another corporation or partnership, if the same person, directly
20 or indirectly through one or more intermediaries, controls both
21 corporations or partnerships. [~~As used herein, "control" has~~
22 ~~the same meaning as in section 431:11-102.]~~



1 (c) The commissioner may require any documents reasonably
2 necessary to verify the information contained in an application.

3 ~~[(d) Each insurer that sells, solicits, or negotiates any~~
4 ~~form of limited line credit insurance shall provide to each~~
5 ~~person whose duties will include selling, soliciting, or~~
6 ~~negotiating limited line credit insurance a program of~~
7 ~~instruction that shall be subject to approval by the~~
8 ~~commissioner.]"~~

9 SECTION 26. Section 431:9A-107, Hawaii Revised Statutes,
10 is amended by amending subsection (f) to read as follows:

11 "(f) ~~[Licensees]~~ A licensee shall ~~[inform]~~:

12 (1) Inform the commissioner by any means acceptable to the
13 commissioner of ~~[a change of legal name or address]~~
14 any change of status within thirty days of the
15 change~~[-]~~; and

16 (2) Report any change of status to the business
17 registration division if the licensee is a business
18 entity registered with the department of commerce and
19 consumer affairs pursuant to title 23 or title 23A, or
20 if the licensee has registered a trade name pursuant
21 to part I of chapter 482.



1 Failure to timely inform the commissioner or the business
2 registration division of a change of [~~legal name or address~~
3 ~~shall~~] status may result in a penalty pursuant to section 431:2-
4 203.

5 As used in this subsection, "change of status" includes but
6 shall not be limited to change of legal name, assumed name,
7 trade name, business address, home address, business phone
8 number, business fax number, business electronic mail address,
9 or business website address."

10 SECTION 27. Section 431:9A-107.5, Hawaii Revised Statutes,
11 is amended by amending subsection (a) to read as follows:

12 "(a) Notwithstanding any other provision of this article,
13 the commissioner may issue:

14 (1) A limited license to persons selling travel tickets of
15 a common carrier of persons or property who shall act
16 only as to travel ticket policies of accident and
17 health or sickness insurance or baggage insurance on
18 personal effects;

19 (2) A limited license to each individual who has charge of
20 vending machines used in this [~~State~~] state for the
21 effectuation of travel insurance;



(3) A limited license to any individual who sells policies of accident and health or sickness insurance as a promotional device to improve the circulation of a newspaper in this ~~[State,]~~ state;

~~[(4) A limited license to creditors for the purposes of enrolling debtors under a group credit life insurance or group credit disability insurance policy, issuing certificates of insurance pursuant thereto, or issuing individual credit life insurance or credit disability insurance policies to debtors;]~~ or

~~[(5)]~~ (4) A limited line credit insurance producer license to any individual who sells ~~[policies of individual or group credit life, credit disability, credit involuntary unemployment, or credit property insurance; provided the individual satisfactorily passes a pre-licensing examination that is limited to the kinds of insurance marketed through creditors.],~~ solicits, or negotiates limited line credit insurance."

SECTION 28. Section 431:9A-108, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:



1 "(a) Except as provided in section 431:9A-112, a
2 nonresident applicant shall receive a nonresident producer
3 license if:

4 (1) The applicant is currently licensed as a resident and
5 is in good standing in the applicant's home state;

6 (2) The applicant has submitted the proper request for
7 licensure and has paid the fees required by section
8 431:7-101;

9 (3) The applicant has submitted or transmitted to the
10 commissioner the application for licensure that the
11 applicant submitted to the applicant's home state, or
12 in lieu of the same, a completed uniform application;
13 and

14 (4) The applicant's home state awards [~~a~~] nonresident
15 producer [~~license~~] licenses to [~~a-resident~~] residents
16 of this [~~State~~] state on the same basis."

17 2. By amending subsection (d) to read:

18 "(d) Notwithstanding any other provision of this article,
19 an applicant licensed as a surplus lines producer in the
20 applicant's home state shall receive a [~~nonresident~~] surplus
21 lines broker license if [~~the~~]:



(1) The applicant complies with subsection (a) [~~.—Except~~
as to subsection (a), nothing in this section
otherwise amends or supersedes any provision of
article 8.]; and

(2) The applicant's home state issues nonresident surplus
lines broker licenses to residents of this state on
the same basis."

SECTION 29. Section 431:9A-110, Hawaii Revised Statutes,
is amended to read as follows:

"~~[f]~~ **§431:9A-110** ~~[f] Assumed~~ **Legal, trade, and assumed**
names. (a) Every insurance producer doing business in this
state shall notify the commissioner in writing of the insurance
producer's legal name and trade name, if applicable.

(b) An insurance producer doing business under any name
other than the producer's legal name shall [~~be required to~~]
notify the commissioner in writing prior to using the assumed
name."

SECTION 30. Section 431:9A-112, Hawaii Revised Statutes,
is amended by amending subsection (b) to read as follows:

"(b) ~~[In the event that]~~ If the commissioner takes action
pursuant to subsection (a), the commissioner shall notify the
applicant or licensee in writing of the reason for that action.



1 The applicant or licensee may make written demand upon the
2 commissioner within ten days of the date of receipt of the
3 notice for a hearing before the commissioner to determine the
4 reasonableness of the commissioner's action. The hearing shall
5 be held within [~~twenty~~] thirty days of receipt of the written
6 demand and shall be held pursuant to chapter 91; provided that
7 this subsection shall not apply to an action taken pursuant to
8 subsection (a)(15), and following [~~such~~] that action, unless
9 otherwise provided by law, the commissioner shall without
10 further review or hearing renew, reinstate, or grant the license
11 only upon receipt of an authorization from the administering
12 entity."

13 SECTION 31. Section 431:9A-124, Hawaii Revised Statutes,
14 is amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) To qualify for a license renewal, a licensee shall:

17 (1) During the [~~twenty-three~~] twenty-four months preceding
18 a license renewal, complete the required number of
19 credit hours as set forth in subsection (b) in
20 approved continuing education courses; and

21 (2) Pay the fees as required under section 431:7-101."

22 2. By amending subsections (d) and (e) to read:



1 "(d) Unless an extension of time has been granted in
2 advance by the commissioner, a licensee's failure to satisfy all
3 of the continuing education requirements [~~one month prior to~~] by
4 the renewal date shall result in that licensee's license being
5 automatically placed on an inactive status. To reactivate a
6 license, the licensee shall submit proof to the insurance
7 division that the requisite number of credit hours [~~have~~] has
8 been completed and the licensee shall pay any required fees and
9 penalties.

10 (e) After a licensee completes an approved continuing
11 education course, the approved course provider shall issue to
12 the licensee a certificate of completion in a form approved by
13 the commissioner that certifies that the licensee has
14 successfully completed the course. Both the licensee and a
15 person authorized to sign on behalf of the approved course
16 provider shall sign the certificate of completion. The approved
17 course provider shall electronically submit the certificate of
18 completion to the insurance division [~~not later than one month~~
19 ~~prior to the renewal date for the license.~~] within fifteen days
20 of course completion."

21 SECTION 32. Section 431:9A-142, Hawaii Revised Statutes,
22 is amended as follows:



1 1. By amending subsection (b) to read:

2 "(b) The commissioner may issue a limited lines motor
3 vehicle rental company producer license to a motor vehicle
4 rental company; provided[+] that:

5 (1) A motor vehicle rental company having a limited lines
6 motor vehicle rental company producer's license shall
7 also authorize employees of the motor vehicle rental
8 company to act individually on behalf of, and under
9 the supervision of, the motor vehicle rental company
10 in solicitation and sale of insurance coverages;

11 (2) Except as set forth in this section, a limited lines
12 motor vehicle rental company producer and its
13 employees shall not advertise or otherwise represent
14 themselves as licensed insurers, insurance agents,
15 insurance producers, or insurance brokers;

16 (3) A limited lines motor vehicle rental company producer
17 may solicit or sell insurance at the rental office or
18 by preselecting coverages in master, corporate, group
19 rental, or individual agreements [~~on policy forms~~
20 ~~approved by the commissioner~~] in any of the following
21 general categories:



1 (A) Personal accident insurance covering the risks of
2 travel to the motor vehicle renter and other
3 occupants of the rental vehicle for accident and
4 health or sickness insurance covering accidental
5 death or dismemberment and reimbursement for
6 medical expenses resulting from an occurrence
7 during the rental period;

8 (B) Liability insurance, uninsured motorist
9 insurance, or underinsured motorist insurance
10 covering the motor vehicle renter and other
11 authorized drivers of the rental vehicle for
12 liability and damage arising from the operation
13 of the rental vehicle;

14 (C) Personal effects insurance covering the motor
15 vehicle renter and other vehicle occupants for
16 the loss of or damage to personal effects that
17 occur during the rental period;

18 (D) Roadside assistance and emergency sickness
19 protection programs; and

20 (E) Incidental travel or vehicle related coverages,
21 which the motor vehicle rental company solicits



1 or sells in connection with the rental of its
2 vehicles;

3 (4) The limited lines motor vehicle rental company
4 producer shall have brochures or other written
5 materials readily available for review and
6 dissemination to prospective motor vehicle renters
7 that:

8 (A) Summarize clearly and correctly the material
9 terms of coverages solicited or sold by the motor
10 vehicle rental company producer, including the
11 identity of the insurer;

12 (B) [~~Discloses~~] Disclose that the coverages solicited
13 by the motor vehicle rental company producer may
14 provide a duplication of coverages already
15 provided by a renter's personal motor vehicle
16 insurance policy or other sources of coverage;

17 (C) [~~States~~] State that purchases by the motor
18 vehicle renter of the kinds of coverages offered
19 by the motor vehicle rental company producer is
20 not required to rent a vehicle; and

21 (D) [~~Describes~~] Describe the process for filing a
22 claim if the renter elects to purchase coverages;



1 (5) The motor vehicle rental company producer shall
2 disclose in the motor vehicle rental agreement
3 evidence of insurance coverages elected or declined by
4 the motor vehicle renter;

5 (6) The motor vehicle rental company producer shall
6 conduct training programs [~~which shall be approved by~~
7 ~~the commissioner~~] for its employees who solicit and
8 sell the rental company producer's insurance
9 coverages;

10 (7) The motor vehicle rental company producer shall not be
11 required to hold funds collected as payments for
12 insurance in a separate trust account; and

13 (8) The motor vehicle rental company producer shall comply
14 with all provisions of chapter 437D."

15 2. By amending subsection (d) to read:

16 "(d) The limited license shall not be issued until all
17 applicable licensing fees required by article 7 have been paid.
18 [~~The commissioner shall collect in advance of issuance of the~~
19 ~~limited license the following fees:~~

20 ~~(1) Issuance of limited line motor vehicle rental company~~
21 ~~producer's license: \$1,000; and~~



~~(2) The fees for services of the department of commerce and consumer affairs subsequent to the issuance of license: \$600 a year for all services (including extension of the license) for a limited line motor vehicle company producer.~~

~~The services referred to in paragraphs (1) and (2) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of commerce and consumer affairs.]"~~

SECTION 33. Section 431:9A-151, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) An approved continuing education course shall be offered only by a person who has a valid continuing education course provider certificate. Any person seeking a continuing education course provider certificate shall submit to the commissioner at least sixty days prior to the date the course will be offered:

(1) An application in duplicate on a form prescribed by the commissioner; and

(2) The appropriate application fee."



2. By amending subsection (d) to read:

"(d) An application may be denied, or the continuing education course provider certificate may be suspended or revoked, if the commissioner determines that the applicant or an officer, director, partner, or owner of an applicant entity:

- (1) Is not qualified to perform the duties and responsibilities listed in this chapter;
- (2) Engaged in false, fraudulent, or deceptive advertising or in making false or untruthful statements to the public or the commissioner;
- (3) Procured any past license or regulatory approval through fraud, misrepresentation, or deceit;
- (4) Aided and abetted an unlicensed person in performing, directly or indirectly, any activities requiring a license;
- (5) Failed to maintain a record or history of competency, trustworthiness, fair dealing, ~~[and]~~ or financial integrity;
- (6) Engaged in business under a past or present license issued pursuant to licensing laws, in a matter causing injury to one or more members of the public;



(7) Failed to comply, observe, or adhere to any law in a manner such that the commissioner deems the applicant to be unfit for approval;

(8) Has been refused a professional, occupational, or vocational license, has had such a license suspended, revoked, or restricted, or has been fined or placed on probation by any licensing authority; or

(9) Has been convicted of a felony or a misdemeanor involving a fraudulent act or an act of dishonesty in the acceptance, custody, or payment of money or property."

SECTION 34. Section 431:9A-152, Hawaii Revised Statutes, is amended to read as follows:

"[f]§431:9A-152[+] **Continuing education course provider additional duties.** In addition to other duties and obligations imposed by law, a continuing education course provider shall be responsible for:

(1) Ensuring that each course is taught by a qualified instructor;

(2) Providing course schedules at least thirty days prior to the start date of each class;



- 1 (3) Monitoring attendance by having licensees who are
2 taking the continuing education course, sign-in at the
3 time of entrance to the course, and sign-out upon
4 completion of the course, for courses other than self-
5 study courses;
- 6 (4) Supervising and evaluating courses and instructors;
- 7 (5) Administering examinations when applicable;
- 8 (6) Verifying and submitting in the appropriate format, on
9 a timely basis, course attendance and completion
10 rosters and other information required by law;
- 11 (7) Signing and issuing to a licensee, in a form approved
12 by the commissioner, a certificate of completion
13 within [~~forty-five~~] fifteen days of completion of a
14 continuing education course;
- 15 (8) Providing continuing education course application
16 materials, including a detailed course content outline
17 and a copy of the provider's tuition and fee refund
18 policy, upon a licensee's request; and
- 19 (9) Publishing and abiding by a refund policy that
20 complies with rules adopted by the commissioner."

21 SECTION 35. Section 431:9A-153, Hawaii Revised Statutes,
22 is amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) [~~A continuing education course provider shall obtain~~
3 ~~prior approval for the course from the commissioner before~~
4 ~~advertising or soliciting for a course.~~] No continuing education
5 course hours shall be credited for a course unless the provider
6 conducting the course has a valid continuing education course
7 provider certificate at the time the course is conducted."

8 2. By amending subsections (c) and (d) to read:

9 "(c) The commissioner [~~may refuse to~~] shall not grant
10 continuing education credit for any course work that focuses on:

- 11 (1) Personal development;
12 (2) Motivational or public speaking;
13 (3) Salesmanship;
14 (4) Product presentation;
15 (5) Mechanical office skills, including but not limited to
16 typing, speed reading, use of calculators, computers,
17 or other office machinery; or
18 (6) Other subject matter not related to the business of
19 insurance as determined by the commissioner.

20 (d) [~~A continuing education course provider shall apply to~~
21 ~~the commissioner for course approval whenever changes are~~
22 ~~proposed in the course material, course hours, method of~~



1 ~~presentation, or method of examination.]~~ A continuing education
2 course provider shall submit for approval to the commissioner a
3 course application at least sixty days prior to the date the
4 course will be offered. Course applications shall be submitted
5 to the commissioner for approval for new courses, renewals of
6 course certificates, or whenever changes are proposed in the
7 course material, course hours, method of presentation, or method
8 of examination. A continuing education course provider shall
9 obtain the commissioner's prior approval for the course before
10 advertising or soliciting for the course."

11 3. By amending subsection (g) to read:

12 "(g) The continuing education course [~~provider~~]
13 certificate[~~+~~

14 ~~(1) Shall~~] shall expire:

15 [~~(A)~~] (1) On July 1 of the calendar year immediately
16 following the calendar year the application for the
17 initial certificate was received, if the application
18 was received in the months of January through June; or

19 [~~(B)~~] (2) On July 1 of the second calendar year following
20 the calendar year the application for the initial
21 certificate was received, if the application was
22 received in the months of July through December[~~+~~ and



1 ~~(2) May thereafter].~~

2 The certificate may be renewed once for a two-year period
3 by application ~~[for a period of one year]~~ beginning on July 1
4 and ending on July 1 of the ~~[following]~~ second calendar year~~[,~~
5 ~~unless the certificate is earlier]~~; provided that the
6 certificate is not suspended, expired, or revoked by the
7 commissioner."

8 SECTION 36. Section 431:9A-154, Hawaii Revised Statutes,
9 is amended by amending subsection (d) to read as follows:

10 "(d) The effective date of a completed examination
11 pursuant to this section shall be the date the continuing
12 education course provider receives the completed examination.

13 Upon receipt of the completed examination, the continuing
14 education course provider or the continuing education course
15 provider's agent shall grade the examination and mail the
16 results to the licensee within ~~[thirty days for a multiple~~
17 ~~choice examination, and within forty-five days for an essay~~
18 ~~examination.]~~ fifteen days."

19 SECTION 37. Section 431:9A-158, Hawaii Revised Statutes,
20 is amended to read as follows:

21 "~~[+]~~**\$431:9A-158**~~[+]~~ **Reporting credit hours and**
22 **recordkeeping.** Continuing education course providers shall:



(1) Submit course completion information as prescribed by the commissioner to the insurance division within ~~[forty-five]~~ fifteen days after the course is completed or the competency examination is scored~~[~~whichever is later]. The information shall be transmitted in an electronic form in the format prescribed by the commissioner; and

(2) Maintain adequate records to verify the attendance and successful course completion pursuant to section 431:9A-125(b)."

SECTION 38. Section 431:10A-603, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~**\$431:10A-603**~~[+]~~ **Self-employed persons, exemption.** The requirements of this article related to mandated coverages for persons insured under accident and health or sickness policies shall not apply to accident and health or sickness policies for self-employed persons in this ~~[State,]~~ state; provided that this exemption shall apply only to those portions of the accident and health or sickness policies that cover self-employed persons in this ~~[State.]~~ state and individuals included in the self-employed person's family coverage."



SECTION 39. Section 431:14-104, Hawaii Revised Statutes,
is amended by amending subsection (a) to read as follows:

"(a) Every insurer shall file [~~in triplicate~~] with the
commissioner[~~, except as to specific inland marine risks which
by general custom of the business are not written according to
manual rate or rating plans and bail bonds subject to section
804-62,~~] every manual of classifications, rules, and rates,
every rating plan, every other rating rule, and every
modification of any of the foregoing [~~which~~] that it proposes to
use[~~. Every filing shall state its proposed effective date, and
shall indicate the character and extent of the coverage
contemplated. The filing also shall include a report on
investment income.~~]; provided that filings with regard to
specific inland marine risks, which by general custom of the
business are not written according to manual rate or rating
plans, and bail bonds, subject to section 804-62, shall not be
required pursuant to this subsection.

Every filing shall:

- (1) Consist of two printed copies and one copy filed by
electronic, telephonic, or optical means;
- (2) State its proposed effective date;



1 (3) Indicate the character and extent of the coverage
2 contemplated; and

3 (4) Include a report on investment income."

4 SECTION 40. Section 431:14F-105, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) Every managed care plan shall file [~~in triplicate~~]
7 with the commissioner, every rate, charge, classification,
8 schedule, practice, or rule and every modification of any of the
9 foregoing [~~which~~] that it proposes to use. Every filing shall
10 [~~state its proposed effective date and shall indicate the~~
11 ~~character and extent of the coverage contemplated. The filing~~
12 ~~also shall include a report on investment income.]:~~

13 (1) Consist of two printed copies and one copy filed by
14 electronic, telephonic, or optical means;

15 (2) State its proposed effective date;

16 (3) Indicate the character and extent of the coverage
17 contemplated; and

18 (4) Include a report on investment income."

19 SECTION 41. Section 431:20-103, Hawaii Revised Statutes,
20 is amended to read as follows:



1 "**§431:20-103 General insurance law applicable.** The
2 following provisions shall apply to title insurance and to title
3 insurers:

4 (1) Sections 431:1-103 and 431:1-105;

5 (2) Sections 431:1-212, 431:1-213, and 431:1-214;

6 (3) Sections 431:2-101 to 431:2-106, and sections 431:2-
7 108 to 431:2-110;

8 (4) Sections 431:2-201 to 431:2-204, [~~and~~] sections 431:2-
9 207 to 431:2-212[+], and section 431:2-215;

10 (5) Sections 431:2-302, 431:2-303, 431:2-305, and 431:2-
11 306;

12 (6) Sections 431:3-101 to 431:3-105;

13 (7) Sections 431:3-201 to 431:3-203, 431:3-205, and 431:3-
14 206, and sections 431:3-209 to 431:3-220;

15 (8) Sections 431:3-301, 431:3-305, 431:3-307, and 431:3-
16 308;

17 (9) Sections 431:4-102 to 431:4-127;

18 (10) Sections 431:4-202 to 431:4-207;

19 (11) Section 431:5-101;

20 (12) Sections 431:5-201 to 431:5-203;

21 (13) Sections 431:5-305 and 431:5-306, and sections 431:5-
22 308 to 431:5-311;



1 (14) Article 6;

2 (15) Article 7;

3 (16) Article 9A;

4 (17) Sections 431:10-211, 431:10-216 to 431:10-218, and
5 431:10-220, 431:10-221, and 431:10-224, 431:10-225,
6 and sections 431:10-235 to 431:10-238;

7 (18) Article 13; and

8 (19) Article 15."

9 SECTION 42. Section 431K-8, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) A purchasing group located in this [~~State~~] state may
12 not purchase insurance from [~~a~~]:

13 (1) A risk retention group that is not chartered in this
14 [~~State or from an~~] state; or

15 (2) An insurer not authorized in this [~~State,~~] state,
16 unless the purchase is [~~effected~~] made through a licensed
17 producer acting pursuant to the surplus lines laws [~~of the~~
18 ~~licensed producer's state of domicile.~~] set forth in article 8
19 of chapter 431."

20 SECTION 43. Section 432:2-609, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Fraternal benefit society producers shall be licensed
2 in accordance with the provisions governing producers in
3 ~~[article]~~ articles 7 and 9A of chapter 431, except that the
4 appointment shall be made by the fraternal benefit society.
5 Fraternal benefit society producers are not prohibited from
6 obtaining additional licenses provided for in article 9~~[.]~~ of
7 chapter 431. No examination shall be required of an individual
8 licensed to represent a fraternal benefit society prior to July
9 1, 1988."

10 SECTION 44. Section 481X-2, Hawaii Revised Statutes, is
11 amended by amending the definition of "provider" to read as
12 follows:

13 ""Provider" means a person who is contractually obligated
14 to the service contract holder under the terms of the service
15 contract~~[, including all sellers of motor vehicle service~~
16 ~~contracts]~~."

17 SECTION 45. Section 481X-4, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~[.]~~**\$481X-4**~~[.]~~ **Financial responsibility.** A provider shall
20 comply with the requirements under any one of the following
21 paragraphs, and shall not be subject to any other financial
22 security requirements under state law:



1 (1) The provider shall insure all service contracts under
2 a contractual liability insurance policy issued by an
3 insurer authorized to transact insurance in this
4 [~~State~~] state or issued pursuant to part III of
5 article 8 of chapter 431;

6 (2) The provider shall:

7 (A) Maintain a funded reserve account for all
8 obligations under service contracts issued and in
9 force in this [~~State~~] state. The reserves shall
10 not be less than forty per cent of the gross
11 consideration received from the sale of the
12 service contract, less claims paid, for all in
13 force contracts. The reserve account shall be
14 subject to examination by the commissioner; and

15 (B) Place in trust with the commissioner, for all
16 service contracts issued and in force in this
17 [~~State~~] state, a financial security deposit
18 having a value that is [~~not less than~~] the larger
19 of \$25,000[~~7~~] or five per cent of the gross
20 consideration received, less claims paid for the
21 sale of the service contracts. The financial



1 security deposit shall consist of one of the
2 following:

3 (i) A surety bond issued by an authorized
4 surety;

5 (ii) Securities of the type eligible for deposit
6 by authorized insurers in this [~~State;~~
7 state;

8 (iii) Cash;

9 (iv) A letter of credit issued by a qualified
10 financial institution; or

11 (v) Another form of security authorized by the
12 commissioner by rule; or

13 (3) The provider or its parent company shall:

14 (A) Maintain a net worth or stockholders' equity of
15 at least \$100,000,000; and

16 (B) Upon request, provide the commissioner with a
17 copy of the provider's or the provider's parent
18 company's most recent Form 10-K or Form 20-F
19 filed with the Securities and Exchange Commission
20 within the last calendar year, or if the company
21 does not file with the Securities and Exchange
22 Commission, a copy of the provider's or the



1 provider's parent company's audited financial
2 statements.

3 If the financial responsibility requirement under this
4 paragraph is to be maintained by the provider's parent
5 company, the parent company shall guarantee the
6 provider's obligations under service contracts sold by
7 the provider in this ~~[State.]~~ state."

8 SECTION 46. Section 804-10.5, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) No person shall be sufficient surety who:

11 (1) Has been convicted of perjury for submitting a false
12 statement under section 804-11.5;

13 (2) Does not satisfy the requirements of section 804-11.5;
14 or

15 (3) Does not satisfy the requirements of article ~~[9]~~ 9A,
16 chapter 431, if posting an insurance bond as defined
17 in section 431:1-210(1)."

18 SECTION 47. Section 431:9-236, Hawaii Revised Statutes, is
19 repealed.

20 ~~["§431:9-236 Procedure for refusal, suspension, or~~
21 ~~revocation. The commissioner may suspend, revoke, or refuse to~~
22 ~~extend any such license for any cause specified in this article:]~~



- 1 ~~(1) By order given to the licensee not less than fifteen~~
2 ~~days prior to the effective date thereof, subject to~~
3 ~~the right of the licensee to have a hearing as~~
4 ~~provided in section 431:2-308 and pending such hearing~~
5 ~~the license shall be suspended; or~~
- 6 ~~(2) By an order on hearing made as provided in section~~
7 ~~431:2-308 effective ten days after the date the order~~
8 ~~is given to the licensee, subject to the right of the~~
9 ~~licensee to appeal to the circuit court of the first~~
10 ~~judicial circuit of this State as provided in chapter~~
11 ~~91."]~~

12 SECTION 48. Section 431:9-241, Hawaii Revised Statutes, is
13 repealed.

14 ~~["**~~\$431:9-241~~** Independent bill reviewer. (a)~~
15 ~~"Independent bill reviewer" means any individual who:~~

16 ~~(1) Acts solely on behalf of either the insurer as an~~
17 ~~independent contractor or as an employee of an~~
18 ~~independent contractor; and~~

19 ~~(2) Reviews or audits billings for medical services.~~

20 ~~(b) For the purposes of this section, an individual is not~~
21 ~~deemed an independent bill reviewer if the individual is:~~



1 ~~(1) A salaried employee of an insurer or salaried employee~~
2 ~~of an adjusting corporation owned or controlled by an~~
3 ~~insurer; or~~

4 ~~(2) A database provider for the insurer."]~~

5 SECTION 49. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 50. This Act shall take effect on July 1, 2006.



HB 2319

HD1

Report Title:

Insurance; Statutory Conformity

Description:

Updates and streamlines insurance statutes to conform with federal law and national standards (HB2319 HD1).

